

## Personnel

Employment  
RegulationsDiscipline Policy and  
Procedures**POLICY:**

- .01 The Laboratory has established operating rules and standards of acceptable conduct to ensure a positive, safe, and efficient work environment. Employees must comply with these rules and standards.

*Note:* Performance problems are handled using the Performance Action Track. See [AM 109](#).

**PROGRESSIVE  
DISCIPLINE:**

- .02 The Laboratory subscribes to the principle of progressive discipline to provide employees the opportunity to correct unsatisfactory conduct. Supervisors and managers should identify behavior problems in the early stages and provide employees with assistance and counseling in an effort to correct the problem. In certain circumstances, the seriousness of an offense may justify immediate disciplinary action, including termination, without prior counseling or warning. In these circumstances, the procedures outlined in .20-.41 must be followed. Should it be necessary to remove the individual from Laboratory premises immediately, the procedures outlined in .12 and .44 are to be used.

**IDENTIFYING PROBLEMS:**

- .03 Supervisors and managers may encounter a variety of work-related behavior problems that require some form of corrective action. Such employee problems may involve, but are not limited to, the following:

Absenteeism or chronic tardiness;

Insubordination;

Sexual, racial, or religious harassment;

Violation of law or Laboratory regulations;

Violations of environmental, safety, and health (ES&H) policy or regulations (see [Table 100.I, ES&H Discipline: Violation Levels](#); this table describes significant safety rules relating

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*to prevention of serious danger to the workplace or other employees and the corresponding discipline);*

Dishonesty, theft, or misappropriation of Laboratory funds or property; or

Violations of policy or regulations concerning the protection or use of government property or the procurement of goods and services (*see [Table 100.II](#) or [Table 100.III](#)*).

Other misconduct that adversely affects performance and the employment relationship.

### EVALUATING DISCIPLINE:

#### Appropriate Discipline

- .04 In administering discipline, supervisors and managers must use sound judgment to ensure that there is sufficient basis for the action, that the proposed solution is reasonably related to the seriousness of the problem, and that the solution is appropriate considering the employee's past conduct record.

#### Factors

- .05 Supervisors and managers should consider the following factors when deciding on an appropriate course of action:
- Whether or not the act was intentional,
  - The employee's overall employment record,
  - Previous attempts at disciplinary action and the results, and
  - The nature of the employee's job and the mission of the particular Laboratory organization, which may impose certain conduct requirements (*See [AM 110](#)*).

**NOTE:** See [Table 100.I](#).ES&H Discipline: Violation Levels for assistance in applying these factors to violations of ES&H policy or regulations and [Table 100.II](#).Property Accountability Discipline for assistance in applying these factors to violations of property policy or regulations. See [Table 100.III](#) Procurement Standards for assistance in applying these factors to violations of procurement policy.

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### **Maintain Complete Records**

- .06 The supervisor or manager must maintain accurate and complete records during this process (time, place, and general context of discussions with the employee about the specific problem). The supervisor or manager must also communicate appropriately with the employee and must maintain specific and factual documentation of the counseling efforts.

### **ROLES IN PROGRESSIVE DISCIPLINE:**

#### **Supervisor/Manager**

- .07 Supervisors and/or group-level managers are key figures in the effective application of progressive discipline, consulting and coordinating with line management and with other Laboratory personnel as warranted by the seriousness of the identified disciplinary problem. Nonmanagement supervisors, such as Team Leaders, may administer oral counseling; all other discipline (written counseling and all adverse corrective actions) must be administered by a manager.

#### **Employee Relations Group**

- .08 The Employee Relations Group (HR-2 ER) in the Human Resources Division provides guidance to managers, supervisors, and employees who have questions about progressive discipline issues. A supervisor or manager may consult with HR-2 ER for guidance at any stage of the preliminary corrective action process but managers must coordinate with HR-2 ER before taking any adverse corrective action. Before adverse corrective action is taken, an HR-2 ER Case Coordinator is appointed to facilitate the disciplinary activities until the employee either resumes productive work or terminates from the Laboratory.

#### **Laboratory Officials**

- .09 Depending on the seriousness of the corrective action to be taken, division-level management and other Laboratory officials in coordination with HR-2 ER may be involved in review, recommendation, and/or approval capacities. The employee's line management (group- and division-level) is responsible for initiating, carrying forward, and making final decisions about corrective action. Other officials become involved in corrective

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actions according to the severity of particular actions. Required levels of participation by these officials are included in the description of the progressive discipline process below.

### RANGE OF PROGRESSIVE DISCIPLINE:

- .10 In most cases, no single course of action is immediately obvious; instead, a range of actions—many of which may be acceptable—is available. For preliminary corrective actions, consultation with group-level line management and with HR-2 ER should help ensure consistency of application of corrective action; for adverse corrective actions, review by a Case Review Board is required in most cases to ensure that line managers' decisions are within an appropriate range for consistency across the Laboratory. The range of progressive discipline is defined beginning with paragraph .14, presented in the order of increasing severity.

**NOTE:** Failure to be promoted or the termination of a temporary promotion is not a disciplinary action.

### Employment Status Changes

- .11 Except for termination for cause, the use of employment status changes may or may not be part of the normal progression of disciplinary action. The following are changes that the Laboratory may implement in an employee's status, either as part of or separate from a given disciplinary action.
- .12 **Investigatory Leave** — A manager may place an employee on investigatory leave status when the situation requires immediate removal of the employee from Laboratory premises. This action is appropriate when (1) the manager has reasonable cause to believe the employee has committed a serious offense and, for reasons of security, health, or safety, it is in the Laboratory's best interest that the employee not remain at work or (2) an investigation is necessary to determine whether or not disciplinary action such as suspension or termination is appropriate. If corrective action is then deemed appropriate, it is taken in conformance with the provisions regulating corrective action. The employee placed on investigatory leave is in

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leave with pay status. The Department of Energy (DOE) must be notified if a period of investigatory leave exceeds 30 working days.

- .13 ***Conditional Employment Status*** — This is a special probationary status, not to be confused with the trial-basis transfer or new employee evaluation period. This status may be used for employees returning from a rehabilitation program or from investigatory leave status or may be used when withdrawing a memorandum of intent to terminate to allow a specified period for correcting deficiencies. The conditions of continued employment are stipulated in writing, and the employee acknowledges receipt and agreement by signing the memorandum that outlines the conditions of the employment status. The provisions of reinstatement supersede all other policy, procedures, and conditions of employment. These special conditions are more strict and more severe than the employment terms and conditions generally applicable to Laboratory employees.

### Preliminary Corrective Action

- .14 A preliminary corrective action is an action taken to correct an employee's unsatisfactory conduct.
- Oral Counseling*** - An informal discussion between the immediate supervisor or manager and the employee to resolve problems within the work group (*see* [.18](#)).
- Written Counseling*** - A memorandum from the group-level manager or higher to the employee describing the specific problems, proposed solutions, and previous oral counseling efforts (*see* [.19](#)).

### Adverse Corrective Action

- .15 An adverse corrective action is a disciplinary and/or corrective action taken by the Laboratory when preliminary corrective actions are considered inappropriate. Except for termination for cause, all are considered mechanisms to encourage rehabilitation.
- Written Reprimand*** - A formal written warning, which is appropriate when an employee fails to respond to oral and written counseling or when an act of misconduct occurs that is of sufficient gravity to warrant an immediate written

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response without prior counseling necessarily having occurred.

***Suspension Without Pay (Disciplinary Leave Without Pay)*** - An employee may be placed on leave without pay for disciplinary reasons for a period of time deemed appropriate by management. For exempt employees only, suspension without pay may be imposed only in increments of one workweek.

***Demotion*** - An involuntary reduction in salary or an involuntary reclassification that results in a lower salary range.

***Reduction In Pay*** - A reduction in pay may or may not involve a demotion.

***Termination for Cause*** - Involuntary termination of employment for reasons established by current Laboratory policy.

.16 Deleted.

## PROCEDURES

### PRELIMINARY CORRECTIVE ACTION:

.17 The only formal approvals required before a preliminary corrective action is taken are those of the group-level manager. However, supervisors may consult with HR-2 ER for assistance before and during oral counseling, and managers are encouraged to consult with HR-2 ER before written counseling.

### Oral counseling

.18 This type of counseling should include

- Definition of the unacceptable conduct,
- The conduct expected to improve the situation, and
- Assurance that the discussion is intended to avoid the need for further corrective action.

The supervisor or manager should record the time, place, and nature of the oral counseling with each employee.

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- Written Counseling** .19 In addition to the items included for oral counseling, the memorandum that constitutes written counseling should include the following:
- An offer by the manager to provide assistance or counseling;
  - A statement of other Laboratory services that may provide assistance to the employee for resolving the problem;
  - A sentence at the end of the memorandum that reads: "I have read, understand, and acknowledge receipt of this memorandum;" and
  - Employee signature and date lines. If the employee refuses to sign the memorandum, the refusal should be recorded. However, the conditions of the memorandum are still in effect.
- ADVERSE CORRECTIVE ACTION:** .20 The manager must consult with HR-2 ER before taking any adverse corrective action. When HR-2 ER is contacted by a manager for this reason, an HR-2 ER Case Coordinator is appointed.
- Case Coordinator** .21 HR-2 ER appoints the Case Coordinator from among its employees. The Case Coordinator is the facilitator for all activities related to the case until the employee resumes productive work or terminates from the Laboratory. The Case Coordinator serves as staff to the Case Review Board (*see* [.26-.28](#)) and ensures that each involved organization appoints a representative to serve on this board.
- Written Reprimand** .22 Group-level managers or higher issue written reprimands in consultation with the HR-2 ER Case Coordinator. The employee does not receive a written notice before the written reprimand is prepared. A written reprimand must contain the following:
- The specific departure(s) from policy, procedure, regulation, or conduct standards that requires the reprimand;
  - Supporting facts and documents associated with the matter;

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Action the employee must take to correct the problem, including the appropriate time frame;

Statement of the specific time(s) at which the employee's future conduct will be formally reviewed and by whom;

Statement that a repeat occurrence or continued conduct problems will result in further adverse action that may include termination from employment;

Statement urging the employee to correct the problem so that further disciplinary action will not be necessary;

An offer by the manager to provide assistance or counseling and a statement of other Laboratory services available to help the employee, as appropriate;

A statement of the employee's right to pursue the Laboratory's formal review procedure; and

A sentence at the end of the memorandum that reads: "I have read, understand, and acknowledge receipt of this memorandum."

Employee signature and date lines are to be included. If the employee refuses to sign the memorandum, the refusal should be recorded.

However, the conditions of the memorandum are still in effect.

- .23 A written reprimand is addressed to the employee from the employee's manager. The original is given to the employee, with copies for group and division/program files, the employee's official Laboratory personnel file, and HR-2 ER. Written reprimands are retained in personnel folders in Personnel Records in the Staffing Group (HR-5 Staff) for 2 years.

### Notice of Proposed Adverse Action

- .24 A written notice of adverse action is given to the employee before the effective date of a proposed suspension without pay, demotion, reduction in pay, and/or termination for cause.

### Consult HR-2 ER

- .25 When drafting a formal Notice of Proposed Adverse Action, the employee's manager, with the



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concurrence of the cognizant division/program manager, must consult with HR-2 ER. If an HR-2 ER Case Coordinator has not been appointed, one is appointed. The Case Coordinator ensures that each involved organization appoints a representative to serve on a Case Review Board and serves as staff to the board.

### CASE REVIEW BOARD:

- .26 A Case Review Board must be convened in cases of demotion, suspension without pay of more than 2 days, reduction in pay, or termination for cause before a written notice of adverse corrective action is given to the employee (*see* .29-32). This board facilitates the exchange of information and advice on the proposed adverse action. A line manager from the cognizant division/program office chairs the Case Review Board.

**NOTE:** For suspensions without pay of 2 days or less that result from a violation of ES&H policy or procedure (*see* [Table 100.1, ES&H Discipline: Violation Levels](#)), a Case Review Board need not be convened if the manager has received approval from HR-2 ER and from the division-level manager.

### Membership

- .27 Members of the Case Review Board consist of the chair, the Director for Human Resources (DHR), a staff attorney from Laboratory Counsel (LC), the Affirmative Action/Equal Employment Opportunity (AA/EEO) Officer, and line management representatives from the employee's group as appropriate, and the employee's division-level manager. A representative from the Occupational Medicine Group (ESH-2), from the Facilities, Security, and Safeguards Division (FSS-15), or from other organizations may be included, if appropriate.

### Key Members

- .28 All key members of the Case Review Board or representatives (alternates or designees) must be present to convene or conduct the business of the board. Key members include the chair, the DHR, the staff attorney from LC, the AA/EEO Officer, and the division-level manager. The presence of others is determined by the chair and the Case Coordinator. An alternate or designee appointed to

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attend the meeting must be able to make decisions as a member of the Case Review Board.

- .29 The Case Review Board meets, arrives at a consensus, and recommends an action. The Case Review Board is constituted so that required approvals can be obtained without additional negotiations. The proposed action must be reviewed by LC and reviewed and approved by the cognizant division-level manager and the DHR.

### Notice Before Effective Date

- .30 The notice of proposed adverse action must be given to the employee before the effective date of a proposed action.
- .31 The notice of proposed adverse action is addressed to the employee from the employee's group-level manager through the division-level manager. The original is given to the employee with copies for the group and/or division file, the employee's official Laboratory file, and HR-2 ER. No other copies are to be prepared or distributed without the express approval of the HR-2 ER Group Leader or of LC.
- .32 A notice of proposed adverse action shall state
- The proposed adverse action,
  - The reason(s) for the proposed adverse action,
  - The proposed effective date, and
  - The employee's right to respond orally or in writing to the cognizant division-level manager within the designated number of working days after receiving the notice; however, in no case will the number of working days designated be less than 5.

### Review of Employee Response

- .33 Any response received from the employee is evaluated promptly by the cognizant division-level manager and the Case Review Board, if appropriate.
- .34 After the expiration of the response period or after evaluation of any response by the employee, the employee will be issued either a Withdrawal of Proposed Adverse Action or a Notice of Adverse Action.

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- Notice of Adverse Action**
- .35 A written notice of adverse corrective action is given to the employee as notification of an adverse corrective action effective on a stated date.
  - .36 A draft notice of adverse action must be reviewed by LC, and reviewed and approved by the cognizant division-level manager and the DHR.
 

**EXCEPTION:** The HR-2 ER Group Leader, instead of the DHR, may approve notices for suspensions without pay of 2 days or less.
  - .37 The notice (other than a notice of termination for cause) is to be addressed to the employee from the employee's group-level manager, through the division-level manager. The original is given to the employee with copies for the group and division, HR-2 ER, and the employee's Laboratory personnel file. No other copies are to be prepared or distributed without the express approval of the HR-2 ER Group Leader or of LC.
  - .38 A notice of adverse action shall state
    - The action and the effective date,
    - The reason for the action, and
    - The employee's right to pursue the Laboratory formal review procedure by filing a form within 30 calendar days after the employee's receipt of the notice.

Contact HR-2 ER for further details.
- Termination for Cause**
- .39 Only the division-level manager may terminate an employee for cause. Requests for termination must be coordinated with HR-2 ER. A termination for cause requires review by LC and review and approval by the cognizant division-level manager and the DHR. The division-level manager is responsible for informing the Director of this action.
  - .40 The manager may request termination for cause through the division-level manager. When termination for cause is believed necessary, the HR-2 ER Case Coordinator assists the division in preparing the necessary requests, preparing a notice

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of intent to terminate, reviewing the affected employee's response, selecting a termination date, and preparing the termination notice.

- .41 The notice of termination for cause is addressed to the employee from the division-level manager. The original is given to the employee with copies for the group and division offices, HR-2 ER, and the employee's Laboratory personnel file. No other copies are to be prepared or distributed without the express approval of the HR-2 ER Group Leader or of LC.

### **REMOVAL OF DOCUMENTS:**

- .42 Records of corrective action filed in an employee's personnel file shall be removed 2 years following the date of the document, provided there has been no further corrective action related to the original or similar action during the preceding 2 years.

### **Early Removal**

- .43 A document may be removed before the scheduled date. To effect this action, the organization originating the corrective action should send a memorandum to LC and the DHR for review and to the cognizant division-level manager for approval.

### **BADGE CONFISCATION:**

- .44 If an employee's badge is confiscated, the standard administrative process of disciplinary action may be used, as appropriate, with the concurrence of the DHR. Usually, the employee will be placed on investigatory leave (*see* [.12](#)) while the Laboratory assesses the situation. The Laboratory will then determine whether to reinstate the employee or pursue further disciplinary action, up to and including termination. (*See also* [AM 702, Security.](#))

### **CONDUCT OUTSIDE THE LABORATORY:**

- .45 Certain conduct, involving an employee outside of work hours and not on Laboratory property, may raise significant concerns about the employee's ability to continue employment. For example, an employee's alleged criminal misconduct may, in the Laboratory's discretion, constitute such a situation. The employee's badge may be confiscated and the employee placed on investigatory leave. Coordination with LC, the DHR, and HR-2 ER is necessary.